



**U.S. ELECTION ASSISTANCE COMMISSION
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Guidelines on HAVA Section 254(a)(11): Material Changes in the Administration of HAVA State Plans

A material change in the administration of the State plan (material change), as referenced by the Help America Vote Act (HAVA) Section 254(a)(11), occurs under five different circumstances. These guidelines are based on the general federal requirements for updating State plans and post award changes contained in Office of Management and Budget Circular A-102 (41 CFR 105-71). Material changes require a State to amend the State plan according to the provisions of HAVA Sections 254, 255, and 256. The examples provided below may not be applicable in all circumstances; likewise, the specific instances for when the State plan should be amended are not limited to the examples provided. The Election Assistance Commission (EAC) advises States to amend the State plan in the event of any of following five circumstances:

(1) New or revised Federal laws or regulations affecting HAVA

implementation. [Based on requirement in 41 CFR 105-71.111(d)(1)]

New or amended Federal statutes or regulations, including appropriations statutes, resulting in a change in scope, purpose, budget, or period of availability of funds requires an amended State plan.

Example: Congress passes legislation to amend the Title III requirements of HAVA.

(2) New or revised State law, organization, or policy affecting HAVA

implementation. [Based on requirement in 41 CFR 105-71.111(d)(2)]

New or amended State statutes, organization, or policy resulting in a change in scope, purpose, budget, or period of availability of funds requires an amended State plan.

Example: (1) State legislation is passed that changes the voting equipment requirements for the State, thus changing the method of implementation of Title III Voting Systems requirements; (2) The responsibility for implementing the plan was previously with the State Attorney General and has now changed to Secretary of State.

(3) A budget change of 10 percent or more of the HAVA fiscal year's cumulative budget across budgeted programs, activities, functions or activities. [Based on requirement in 41 CFR 105-71.130(c)(1)(ii)]

A change of more than 10 percent of the cumulative budget of the fiscal year's requirement payment from one budgeted category to another requires an amended State plan.

Example: A portion of funds, greater than 10 percent of the requirements payment received, budgeted for use in developing the Computerized Statewide Voter Registration List is determined to no longer be needed for the budgeted purpose, and the State would like to use the funds for improvements to the administration of Federal elections.

(4) A revision in the scope or objective of the project. [Based on requirement in 41 CFR 105-71.130(d)(1)]

A change in the means by which a State plans to achieve the HAVA objectives requires an amended State plan.

Example: (1) The State decides to purchase equipment at the State level instead of subgranting to the counties; (2) The State changes the development of the Computerized Statewide Voter Registration List from a bottom up system to a state centralized system; (3) The State files a certification under HAVA Section 251(b)(2)(A), indicating that the State has implemented the requirements of Title III and will use the requirements payments to carry out other activities to improve the administration of elections for Federal office, and did not account for post-Title III compliance activities in the original State plan. (4) The State changes the type of voting system originally planned for use in Title III compliance; the State decides to use an optical scan system with ballot marking devices instead of a direct recording electronic (DRE) system.

(5) An extension in the period of availability of HAVA funds. [Based on requirement in 41 CFR 105-71.130(d)(2)]

An increase in the amount of funding authorized under HAVA appropriated to the State not provided for in the original State plan or funds remaining in a fiscal year not covered by the original State plan requires an amended State plan.

Example: (1) A new requirements payment is appropriated for a fiscal year not covered by the State plan; (2) The State has funds from a previous fiscal year's requirements payment remaining in a fiscal year not provided for under the current State plan.